

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF ALABAMA
NORTHERN DIVISION

COTTON STATES MUTUAL
INSURANCE COMPANY,
Plaintiff,

*

*

v.

*

CASE NO 2:07 CV-868

LEE A. SELLARS and
JASON ANDREW DONALD,
LINDLEY SELLARS, and
ROSEMARY AND STEPHEN
STANLEY

*

*

*

Defendants.

*

PLAINTIFF'S MOTION TO EXTEND TIME TO RESPOND TO ORDER TO
SHOW CAUSE FOR PURPOSE OF FILING A SUPPLEMENTAL RESPONSE

COMES NOW the Plaintiff, Cotton States Mutual Insurance Company, and respectfully requests this Court to extend the time to respond to its Order to Show Cause for the purpose of supplementing its June 20, 2008 response and as grounds would state as follows:

1. On June 13, 2008, this Court entered an Order to the Plaintiff to Show Cause on or before June 20, 2008, why Rosemary Stanley and Steven Stanley had not been served with the Amended Complaint.

2. The basis for this Order to Show Cause was the docket sheet indicated the defendants, Rosemary Stanley and Steven Stanley had not been served with the Amended Complaint which had been allowed to be filed by Order of this Court on April 24, 2008.

3. Shortly after April 24, 2008, Plaintiff sent to the Court the Amended Complaint along with a summons for issuance by certified mail upon defendants, Linda

Sellers, Rosemary Stanley and Steven Stanley. The summons issued to Rosemary and Steven Stanley was in error as it listed both defendants on the same summons. The clerk's office notes a call was placed to the plaintiff's counsel. At that time, the clerk requested the matter be corrected and the summons reissued. The message did not reach the undersigned and the summons was not reissued as requested. Upon information and belief the summons remained in the clerk's office and was never issued.

5. Upon receipt of the Order to Show Cause and in an attempt to cure the procedural issues by deadline of June 20, 2008, the Plaintiff reissued the Amended Complaint along with two summons, one each for Defendants, Rosemary Stanley and Steven Stanley, separately, by personal process server, James Fuqua on June 13, 2008.

6. On June 14, 2008, James Fuqua affected personal service upon Rosemary Stanley and on Steven Stanley at their place of residence.

7. On June 17, 2008, the Plaintiff filed its Show Cause Response advising the Court that Rosemary Stanley and Steven Stanley had been personally served.

8. On June 26, 2008, the Plaintiff was contacted by the Clerk of this Court and advised the June 14, 2008 service was improper and ineffective as the summons had not been reissued through the clerk of the Court's filing process.

9. The Plaintiff has now reissued the corrected summons' to the clerk along with the Amended Complaint for service via certified mail on defendants, Rosemary Stanley and Steven Stanley with separate summons and Amended Complaint. Once issued and served this should cure the procedural defects identified by the Court.

10. The Plaintiff respectfully requests additional time in which to correct this service of process and allow this paper to serve as its Supplemental Response to the Order to Show Cause.

WHEREFORE, the premises considered, Plaintiff respectfully submits this request asking for extension in which to properly serve the above named Defendants through the Clerk of this Court and allow proper processing for issuance of the Amended Complaint and accept this supplemental response as having been timely filed.

/s JANNEA S. ROGERS
Jannea S. Rogers(rogej7403)
Adams and Reese LLP
Post Office Box 1348
Mobile, Alabama 36633
251.433.3234
251.438.7733 – facsimile
jannea.rogers@arlaw.com
Attorneys for Plaintiff Cotton States Mutual
Insurance Company

CERTIFICATE OF SERVICE

I do hereby certify that I have on this the 1st day of July, 2008, electronically filed the foregoing with the Clerk of the Court using the CM/ECF system which will send notification of such filing to the following and that I hereby certify that I have mailed by placing a copy of same in the United States Mail, first-class postage prepaid and properly addressed to those non CM/ECF participants:

William B. Sellars
Louis M. Calligas
Balch & Bingham LLP
P. O. Box 78
Montgomery, Alabama 36101-0078

s/ Jannea S. Rogers
OF COUNSEL